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Los Angeles, CA 90067-3021

In re Application of
TORRES et al.
Application No.: 09/744,790
PCT No.: PCT/US99/17369
Int. Filing Date: 30 July 1999
Priority Date: 30 July 1998
Attorney Docket No.: 042159/0117
For: METHOD AND APPARATUS ...
COMMUNICATIONS SYSTEM

DECISION

This decision is in response to applicants' "PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)" filed 18 December 2001.

BACKGROUND

On 30 July 1999, applicants filed international application PCT/US99/17369, which claimed a priority date of 30 July 1998. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 10 February 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 23 February 2000, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 30 January 2001.

On 30 January 2001, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, an authorization to charge the U.S. basic national fee to Deposit Account No. 50-0872.

On 27 March 2001, the USPTO mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) indicating that the application was abandoned as to the United States of America because the Deposit Account was not found.

On 23 April 2001, applicants submitted a "PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR §1.181(a)".

On 28 September 2001, the USPTO mailed a decision dismissing applicants' petition

under 37 CFR 1.181. Specifically, it was noted that although the Deposit Account was found and did include sufficient funds, an authorized user of the Deposit Account was not listed in the Transmittal Letter filed 30 January 2001 and thus the application was still abandoned as to the United States for failure to pay the basic national fee by thirty months. (The decision mailed 28 September 2001 also indicated that a new NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) would be mailed indicating that the U.S. basic national fee has not been paid and that the user of the deposit account is not listed as an authorized user. However, a new NOTIFICATION OF ABANDONMENT has not yet been set. In view of applicants' grantable petition under 37 CFR 1.137(b), as set forth below, the mailing of a new NOTIFICATION OF ABANDONMENT would be moot. Accordingly, a new Form PCT/DO/EO/909 will not be mailed.)

On 18 December 2001, applicants filed another submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. basic national fee and an assertion of small entity status. The submission was also accompanied by the instant "PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)".

DISCUSSION

A petition to revive the present application under 37 CFR 1.137(b) must include:

- (1) The required reply;
- (2) The petition fee;
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As to item (1), applicants submitted the basic national fee for a small entity on 18 December 2001.

As to item (2), applicants submitted the petition fee for a small entity of \$640.00 on 18 December 2001.

With regard to item (3), petitioner has provided the required statement.

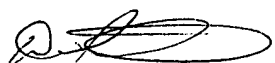
A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

CONCLUSION

The petition under 37 CFR 1.137(b) is GRANTED for the reasons set forth above.

Please direct any further correspondence with respect to this matter to the Commissioner of Patents and Trademarks, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application including preparing and mailing a NOTIFICATION OF MISSING REQUIREMENTS (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date.



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